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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/470,537	12/22/1999	BRANDON A. GROOTERS	98-0722	6274

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GATEWAY, INC.  
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EXAMINER
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YENKE, BRIAN P

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 12/19/2003

21

Please find below and/or attached an Office communication concerning this application or proceeding.

TS

# Office Action Summary

Application No.

09/470,537

Applicant(s)

GROOTERS, BRANDON A.

Examiner

BRIAN P. YENKE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Appeal Brief 08 Sep 03.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. In view of the Appeal Brief filed on 08 September 2003, PROSECUTION IS HEREBY REOPENED.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 2a. Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Darbee et al., US 6,130,726 in view of Zigmond et al., US 6,571,392.

In considering claims 1, 8 and 14-17,

Darbee discloses a remote control system which receives via a selective download (col 3, line 32-34) advertising and programming data which is stored in the remote control. The selective download occurs upon the identification of the remote control unit itself, an identification of the user of the remote control or upon some assessment of the viewing habits or preferences of the user. Darbee also discloses that an object of the remote control is to store only a subset of available program guide and/or advertising information. The subset could be specific channels, specific areas of user interest, specific genres of programming or specific times. Darbee also discloses new program guide data being provided to the remote each time that a user activates the remote control or selects a channel for viewing. Darbee also discloses that the software application running on the remote obtains and causes to be stored in memory data indicative of the viewing habits of the viewer. Also, Darbee discloses transmitting the stored program/content selection history (col 20, line 40-43), address and user identification to a set-top box or provider/host system, which provides the remote a tailored/filtered data corresponding to the remote transmitted data. Darbee also discloses that the amount of memory in a remote control usually must be minimized (col 3, line 40-45), and where the wireless link (IR or RF) to the remote also generally have a finite bandwidth. Darbee also discloses (col 4, line 19-33) that the remote control may also be provided with alternative data links than traditional broadcast sources, (cable, satellite, network channels) such as paging networks, FM SCA data links,

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modem links and or other data links, including wireless and non-wireless links to the internet.

*a) the claimed first information handling system...is met by a television receiver or set-top box (col 4, line 20-32)*

*b) the claimed second information handling system...is met by remote control 10 (Fig 1)*

*c) the claimed said first information handling system being capable of displaying...is met by a television receiver or a set-top box connected to a display*

*d) the claimed said first information handling system being capable of responding...is met where the set-top box/display parses/filters/tailors the programming/advertising/EPG data sent to the remote based on a channel change/selection/identification of a new user/user history/remote identification (col 3, line 64-67, col 10, line 38-46)*

*e) the claimed said second information handling system being capable of displaying even related program guide data on said second display, wherein said second information handling system receives an input for event related program guide data is met by display 14 (Fig 1). Where the remote control 10 receives an input via user, and selectively downloads to and stores within the remote upon identification of the user advertising and programming data based upon the users viewing habits and preferences (col 3, line 31-39). Since the amount of memory in a remote control must be minimized, one or more unique serial numbers and/or addresses may be stored in memory in the remote control which can be used to filter and/or parse data transmitted by an associated set-top box or RF tap. This makes it possible to send specific*


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program guide, advertising or other information to individual users. The remote control 10 may also receive blocks of program guide data each time a user activates remote control 10 or uses remote control 10 to select a channel for viewing (col 9, line 14-20). The remote control 10 includes a display 14 to display the program guide data (Fig 5a).

However, Darbee does not explicitly recite "determining whether event related program guide data is available in the second information handling system" (5), and the reference is in fact silent as to whether or not local storage is first considered when data is requested.

The examiner incorporates Zigmond et al., US 6,571,392 which discloses a receiver unit 201 which receives a Uniform Resource Identifier (URI) which identifies the information resource, along with the broadcast of the television video signal. The receiver unit checks it's own local memory/storage unit of the receiver to determine if the information resource identified by the URI is available (in the memory). In the event the information resource is present/available the receiver uses the URI to retrieve the information resource locally, otherwise when the information resource is not present/not available the receiver uses the URI to retrieve the information resource from the internet (Fig 2).

Generally speaking, Zigmund et al teaches a process by which information is retrieved rapidly from local storage when possible, and otherwise retrieval over a communication link. One of ordinary skill in the art would have recognized that this provides a more efficient means of data retrieval and use of local storage. Therefore,



the examiner submits that it would have been obvious to one of ordinary skill in the art to modify Darbee et al with such teachings for the stated advantages.

In considering claim 2-5 and 9-11,  
Darbee discloses that a television (or set-top box) communicates to remote 10 via infrared 34 (receive) and RF 48 (Rx/Tx), where remote 10 communicates to the television (or set-top box) via IR 35 (transmit) and RF 48 (Rx/Tx) (Fig 2).

In considering claims 6-7 and 12-13,

- a) *the claimed said first information handling system...* is met where the television displays a selected channel, or program guide based on a users selection via remote (10).
- b) *the claimed second information handling system...* is met where remote 10 provides a channel up/down 18, EZ navigator 20, EZ information 22, EZ Guide 24 and EZ Menu Key 25 among others (col 6, line 50-61).
- c) *the claimed said event related program guide data is capable...* is met where remote 10 receives and stores data comprising a guide which covers a 24-hour period (col 8, line 20-26).

In considering claims 18-20,

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Darbee discloses a remote control device 10 which is able to display what the main display (television) is displaying and also gives the user the ability to search other channels, menu, guides without disrupting the main display. The remote control stores data comprising a guide which covers a 24-hour period which will preferably be updated at 4:00am each day (col 8, line 20-26).

In considering claims 21-22,

Darbee discloses a remote control system which receives via a selective download (col 3, line 32-34) advertising and programming data which is stored in the remote control. The selective download occurs upon the identification of the remote control unit itself, an identification of the user of the remote control or upon some assessment of the viewing habits or preferences of the user. Darbee also discloses that an object of the remote control is to store only a subset of available program guide and/or advertising information. The subset could be specific channels, specific areas of user interest, specific genres of programming or specific times. Darbee also discloses new program guide data being provided to the remote each time that a user activates the remote control or selects a channel for viewing. Darbee also discloses that the software application running on the remote obtains and causes to be stored in memory data indicative of the viewing habits of the viewer. Also, Darbee discloses transmitting the stored program/content selection history (col 20, line 40-43), address and user identification to a set-top box or provider/host system, which provides the remote a



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tailored/filtered data corresponding to the remote transmitted data. Darbee also discloses that the amount of memory in a remote control usually must be minimized (col 3, line 40-45), and where the wireless link (IR or RF) to the remote also generally have a finite bandwidth. Darbee also discloses (col 4, line 19-33) that the remote control may also be provided with alternative data links than traditional broadcast sources, (cable, satellite, network channels) such as paging networks, FM SCA data links, modem links and or other data links, including wireless and non-wireless links to the internet.

*b) the claimed transmitting the event related program guide data...is met by a television (or set-top box) which receives a user input via remote 10 (either RF or IF) and where the television transmits the desired information into remote 10 (via receive RF 48 or IR 34).*

*c) the claimed storing the transmitted even related program...is met where remote 10 comprises a microcontroller 28 which controls the processing of data utilizing bus 42 and memories 36 and 42.*

*d) the claimed displaying at least a portion of the event related program guide data...is met where display (LCD 14) of remote 10 displays the desired program guide information based on users input. Where the remote control 10 receives an input via user, and selectively downloads to and stores within the remote upon identification of the user advertising and programming data based upon the users viewing habits and preferences (col 3, line 31-39). Since the amount of memory in a remote control must*

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be minimized, one or more unique serial numbers and/or addresses may be stored in memory in the remote control which can be used to filter and/or parse data transmitted by an associated set-top box or RF tap. This makes it possible to send specific program guide, advertising or other information to individual users. The remote control 10 may also receive blocks of program guide data each time a user activates remote control 10 or uses remote control 10 to select a channel for viewing (col 9, line 14-20). The remote control 10 includes a display 14 to display the program guide data (Fig 5a).

However, Darbee does not explicitly recite "determining whether event related program guide data is available in the second information handling system" (5), and the reference is in fact silent as to whether or not local storage is first considered when data is requested.

The examiner incorporates Zigmond et al., US 6,571,392 which discloses a receiver unit 201 which receives a Uniform Resource Identifier (URI) which identifies the information resource, along with the broadcast of the television video signal. The receiver unit checks it's own local memory/storage unit of the receiver to determine if the information resource identified by the URI is available (in the memory). In the event the information resource is present/available the receiver uses the URI to retrieve the information resource locally, otherwise when the information resource is not present/not available the receiver uses the URI to retrieve the information resource from the internet (Fig 2).

Generally speaking, Zigmund et al teaches a process by which information is retrieved rapidly from local storage when possible, and otherwise retrieval over a

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communication link. One of ordinary skill in the art would have recognized that this provides a more efficient means of data retrieval and use of local storage. Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art to modify Darbee et al with such teachings for the stated advantages.

In considering claims 23-26,  
Darbee discloses a remote control device 10 which is able to display what the main display (television) is displaying and also gives the user the ability to search other channels, menu, guides without disrupting the main display. The remote control stores data comprising a guide which covers a 24-hour period which will preferably be updated at 4:00am each day (col 8, line 20-26).

2b. Claims 27-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Darbee et al., US 6,130,726.

In considering claims 27-28,  
*a) the claimed first information handling system...* is met by a television receiver or set-top box (col 4, line 20-32)

*b) the claimed second information handling system...* is met by remote control 10 (Fig 1) which includes an LCD display 14 (Fig 1)

However, Darbee does not explicitly recite displaying program content and displaying program guide data on the television receiver or set-box (first display) in the

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disclosed invention. Darbee does disclose in the background of the invention, that it is conventional for a display to display both EPG and display on the screen of a TV or set-top box. Thus the feature of displaying program data and program content (TV and EPG) is conventional in the art.

Darbee discloses a remote control device 10, which is able to display information consisting of a program guide, advertising data and internet content (col 7, line 43-65). Remote control 10 is also able to control the selection of both television and internet content for depiction on an associated monitor or other display (col 2, line 56-59). Where remote control 10 may be dedicated to controlling only one host device utilizing both RF or IF transmission/reception, or can be dedicated as a universal remote control capable of controlling multiple devices (i.e. television sets, tape decks, CD players, laser disc players, stereo tuners, and/or personal computers, web computers or web browser applications (col 4, line 48-57).

Darbee discloses in the background, that EPGs are normally are displayed on the screen of a television set or set-top box, with the guide data either replacing or overlaying the program the user is watching (col 1, line 29-39).

The applicant also states in the background, that typically the program guide is displayed on a display in a grid style format so that the user can easily browse the EPG data for programs of interest.

Therefore, it would have been obvious to one of ordinary skill in the art to utilize a television or set-top box (first display) which allows the user to display both program content and program data as disclosed in the background of Darbee, in order to provide

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the user(s) not only a remote which can display programming/advertising/EPG data but also a television (set-top box) which is able to display both contents and data, to provide viewers other than the remote viewer, the ability to view both program contents and program data which is conventional in the art.

In considering claims 29-30 and 33-34,

The examiner takes "OFFICIAL NOTICE" in regards to a display which displays both program guide data and content where the display of program guide is done so on a smaller portion of the display than the content (i.e. minimally invasive and minimally interfering manner).

The display of a program guide (EPGs) into a display device is to provide the user the ability to peruse the listing of available (to be available) channels/programs of interest.

Prior Art systems utilize an overlay (Picture-in-Picture, Picture-on-Picture) display where the user has the ability the data, i.e. 2 data sources, either in proportional sizes (i.e. two screens), or making one the primary (larger) image and the other the secondary (smaller) image.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize a conventional television display where the user is able to visibly display the main image and also display the program guide data (secondary image), where the secondary image does minimally interferes the main display by being displayed in a smaller size relative to the main (primary) image.

In considering claims 31-32 and 35,

It should be noted that the examiner is rejecting claims (31-35) which differ from the claims 1-30 in that claims 31-35 reversed the functions of the 1<sup>st</sup> and 2<sup>nd</sup> handling system. Nonetheless, the examiner is rejecting the claims with the Darbee reference, where now the 1<sup>st</sup> handling system is the remote (where the remote was the 2<sup>nd</sup> in the above claims) and the 2<sup>nd</sup> handling system (TV or set-top box) (where the TV was the 1<sup>st</sup> apparatus in the above claims). Since claims 31-35 are distinct from claims 1-30, and since the 1<sup>st</sup> and 2<sup>nd</sup> handling system are not distinguished by being a remote or TV, the claims are rejected as stated below.

- a) *the claimed upon occurrence of an event, sending a request for program guide data to a second information handling system from a first information handling system...is met by remote 10 (1<sup>st</sup> handling system) which requests information from television (or set-top box, 2<sup>nd</sup> handling system), upon occurrence of a request from the user/channel change/user identification/remote identification/user history.*
- b) *the claimed upon receiving the request, fetching event related program guide data is met by the television (or set-top box, 2<sup>nd</sup> handling system) which transmits the program guide data based on users identity and request.*
- c) *the claimed transmitting the event related program guide data to the first information handling system is met by a television (or set-top box, 2<sup>nd</sup> handling system) which receives a user input via remote 10 (either RF or IF, 1<sup>st</sup> handling system) and where the television transmits the desired information into remote 10 (via receive RF 48 or IR 34).*

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d) *the claimed upon receiving the event related program guide data, displaying at least a portion of the event related program guide data on a first display of the first information handling system* is met by remote 10 which displays the received program guide data on LCD screen 14.

However, Darbee remains silent on the being capable of displaying program content and displaying program guide data on the television receiver or set-box (2nd display).

Darbee does disclose in the background of the invention, that it is conventional for a display to display both EPG and display on the screen of a TV or set-top box. Thus the feature of displaying program data and program content (TV and EPG) is conventional in the art.

Darbee discloses a remote control device 10, which is able to display information consisting of a program guide, advertising data and internet content (col 7, line 43-65). Remote control 10 is also able to control the selection of both television and internet content for depiction on an associated monitor or other display (col 2, line 56-59). Where remote control 10 may be dedicated to controlling only one host device utilizing both RF or IF transmission/reception, or can be dedicated as a universal remote control capable of controlling multiple devices (i.e. television sets, tape decks, CD players, laser disc players, stereo tuners, and/or personal computers, web computers or web browser applications (col 4, line 48-57).

Darbee discloses in the background, that EPGs are normally are displayed on the screen of a television set or set-top box, with the guide data either replacing or

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overlaying the program the user is watching (col 1, line 29-39).

The applicant also states in the background, that typically the program guide is displayed on a display in a grid style format so that the user can easily browse the EPG data for programs of interest.

Therefore, it would have been obvious to one of ordinary skill in the art to utilize a television or set-top box (first display) which allows the user to display both program content and program data as disclosed in the background of Darbee, in order to provide the user(s) not only a remote which can display programming/advertising/EPG data but also a television (set-top box) which is able to display both contents and data, to provide viewers other than the remote viewer, the ability to view both program contents and program data which is conventional in the art.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Yenke whose telephone number is (703) 305-9871. The examiner work schedule is Monday-Thursday, 0730-1830 hrs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, John W. Miller, can be reached at (703)305-4795.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

**(703) 872-9314**



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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist). Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703)305-HELP

B.P.Y

December 12, 2003



JOHN MILLER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600